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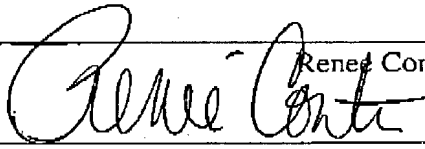
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Examiner: Sun U. Kim

FAX No.: 703-872-9306

Group Art Unit: 1723

Date: March 17, 2004

From: William W. Schwarze

FAX Operator:

Re: U.S. Patent Application No. 09/899,649 of Masaaki Ando et al. (Nitto Denko  
Corporation) for "Running Method and Treatment System for Spiral Wound Membrane  
Element and Spiral Wound Membrane Module"

Title of Paper sent via Facsimile: Request for Withdrawal of Finality of Office Action

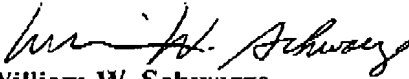
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Renee Conti At 215-965-1287

Attached please find the above document . Thank you.

  
William W. Schwarze

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PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re:	Patent Application of Masaaki Ando <i>et al.</i>	: Group Art Unit 1723 : : :
Conf. No.:	7728	: : :
Appln. No.:	09/899,649	: Examiner: John Kim : :
Filed:	July 5, 2001	: : :
For:	RUNNING METHOD AND TREATMENT SYSTEM FOR SPIRAL WOUND MEMBRANE ELEMENT AND SPIRAL WOUND MEMBRANE MODULE	: Attorney Docket : No. 9982-21US (1108US)

**REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION**

This is in reference to the Office Action dated February 24, 2004 (Paper No. 021204) in the above application. This is not a response to the Office Action, but merely a request to reconsider the holding of finality of the Office Action, so that Applicants can determine an appropriate course of action for response.

The undersigned telephoned Examiner Kim on March 8, 2004 to request withdrawal of the finality of the Office Action. On March 9, 2004, Examiner Kim returned the telephone call and requested that a written Request for Reconsideration of the finality be submitted. He indicated a strong possibility that the request would be granted, based upon his cursory review of the situation. The reasons for the request, as stated in the March 8 telephone call are as follows.

At paragraph 5 of the Office Action, the Examiner states that "Applicants' Amendment necessitated the new ground(s) of rejection presented in this Office Action." This is incorrect. Aside from allowed claims 29-31, the remaining independent claims in this application are claims 26, 32 and 35. As pointed out in the Remarks at page 8 of the prior Amendment, claim 26 is a combination of claims 1 and 5, claim 32 is a combination of claims 6 and 11 and claim 35 is a combination of claims 5 and 12.

In the Office Action dated August 13, 2003, claims 5 and 11 were rejected only over a combination of references including U.S. Patent 6,565,747 of Shintani et al. In the Amendment filed November 13, 2003, Applicants pointed out (bottom of page 10 through top of page 12 of Remarks) that Shintani et al. was not available as prior art under 35 U.S.C. § 103(a), in view of the common ownership of Shintani et al. and the present application and the prohibition under 35 U.S.C. § 103(c). Accordingly, Applicants simply placed claims 5 and 11 in independent form (new claims 26 and 32) and combined claim 5 with claim 12 (new claim 35), with minor formal amendments, to place these claims in condition for allowance.

Since new claims 26 and 32 are the same scope as original claims 5 and 11, and claim 35 is merely the combination of claims 5 and 12, Applicants' Amendment did not necessitate the new grounds of rejection. Instead, the new grounds of rejection were necessitated because Shintani was not a proper prior art reference under 35 U.S.C. § 103(a). Therefore, the withdrawal of the rejection of original claims 5 and 11 should have placed the application in condition for allowance. However, the Examiner has re-searched these claims and made a new rejection of claims 26 and 32, which are merely independent forms of original claims 5 and 11.

In view of the above, the holding of finality is improper, and reconsideration and withdrawal of the finality are respectfully requested.

Respectfully submitted,

MASAAKI ANDO *et al.*

March 17, 2004  
(Date)

By:

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